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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RE: the Application of) Examiner: M. Woodward, Ph.D.
ROGER EKINS)
Application No. 08/447,829) Group Art Unit: 1815
Filed: May 23, 1995)
For: DETERMINATION OF AMBIENT) Response to Paper No. 4
CONCENTRATION OF SEVERAL)
ANALYTES)

**REQUEST FOR RECONSIDERATION
UNDER 37 C.F.R. §1.111**

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In reply to the Official Action dated October 16, 1996 (Paper No. 4), favorable reconsideration and allowance of this application are respectfully requested for the reasons set forth in the following remarks.

REMARKS

In the October 16, 1996 Official Action, claims 1-3 stand rejected under the judicially created doctrine of "obviousness-type" double patenting, based on the claims of applicant's U.S. Patent No. 5,432,099 ("the '099 patent").

Claims 1-3 have also been rejected for "obviousness-type" double patenting based on the claims of the '099 patent in view of U.S. Patent 4,385,126 to Chen et al. In this connection, the Examiner is mistaken in asserting that the employment of a detectable label on the immobilized binding agent is not explicitly recited in the claims of the '099 patent. See, for example, claims 10 and 11 of the '099 patent. Moreover, as will be described below, applicant's purpose in employing a detectably labelled binding agent has nothing to do with the reasons cited by Chen et al. for using a detectably labelled binding agent, namely, internal calibration and quality control.

Claims 1-3 have also been rejected as allegedly lacking novelty in view of the disclosure of Ekins et al., *Analytica Chemica Acta*, 227: 73-96 (1989) ("the Ekins article").